



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

**JUL 17 2013**

REPLY TO THE ATTENTION OF:

LC-8J

CERTIFIED MAIL

Receipt No. 7009 1680 0000 7672 1417

Mr. Won-Hwan Song  
Vice President  
LG Chem Michigan, Inc.  
1 LG Way  
Holland, Michigan 49423

Re: Subpoena Duces Tecum Issued Pursuant to Section 11(c) of the  
Toxic Substances Control Act, 15 U.S.C. § 2610(c)

Dear Mr. Song:

The U.S. Environmental Protection Agency, Region 5, is hereby serving the enclosed Subpoena Duces Tecum (Subpoena) on LG Chem Michigan, Inc., of Holland, Michigan (Respondent or you). EPA is investigating whether Respondent has complied with the provisions of the Toxic Substances Control Act (TSCA), 15 U.S.C. §§ 2601 *et seq.*, codified at 40 C.F.R. Part 700. More specifically, EPA is investigating whether Respondent has complied with TSCA Section 4 test rule requirements (40 C.F.R. Part 790), TSCA Section 5 new chemical requirements (40 C.F.R. Parts 720, 721 and 723), the TSCA Section 8(a) Chemical Data Reporting rule (40 C.F.R. Part 711), TSCA Section 8(c) recordkeeping (40 C.F.R. Part 717) and 8(e) reporting requirements, TSCA Section 12(b) export notification requirements (40 C.F.R. Part 707 Subpart D), and TSCA Section 13 import certification requirements (40 C.F.R. Part 707 Subpart B).

Section 11(c) of TSCA, 15 U.S.C. § 2610(c), authorizes the EPA Administrator to require that witnesses answer questions and provide reports, papers, documents, and other information to carry out the purposes of TSCA. This Subpoena requires you to send all information and copies of supporting documents requested in Attachment A to EPA by first class mail within 30 days of receipt of this Subpoena.

Response to this Subpoena is mandatory. If you require additional time to respond, you must contact Meghan Dunn by e-mail at [dunn.meghan@epa.gov](mailto:dunn.meghan@epa.gov) or by phone at (312) 886-6191 within five calendar days of receipt of this letter and indicate the reason you require additional time to respond. Failure to respond to this Subpoena could result in a court action against you.

All responses must be sent to:

Meghan Dunn  
Enforcement Officer  
U.S. EPA, Region 5 (LC-8J)  
Pesticides and Toxics Compliance Section  
77 W Jackson Boulevard  
Chicago, Illinois 60604

Responses claimed as Confidential Business Information (CBI) should be mailed in strict accordance with the instructions established in Section III of this Subpoena.

EPA may use the information you provide in response to this Subpoena in any administrative, civil or criminal action.

If you have any questions concerning this Subpoena, please contact Meghan Dunn at the contact information listed above.

Sincerely,



Mardi Klevs  
Chief  
Chemicals Management Branch  
Land and Chemicals Division

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of:

LG Chem Michigan, Inc.  
Holland, Michigan,

Respondent.

SUBPOENA DUCES TECUM

TO: Mr. Won-Hwan Song  
Vice President  
LG Chem Michigan, Inc.  
1 LG Way  
Holland, Michigan 49423

**LG Chem Michigan, Inc. of Holland, Michigan IS HEREBY COMMANDED**, pursuant to Section 11(c) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2610(c), to submit all information and copies of documents requested in Attachment A to this Subpoena within 30 days of your receipt of this Subpoena by mailing the required information and documents first class to:

PLACE: Meghan Dunn  
Enforcement Officer  
Pesticides and Toxics Compliance Section (LC-8J)  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd.  
Chicago, IL 60604

**SPECIFICALLY, YOU MUST:**

1. Review Attachment A and the Declaration attached to this Subpoena. The instructions, definitions, information and document requests, and Declaration are integral components of the Subpoena and which you must follow to comply with the Subpoena.
2. Provide a clear and complete narrative response to each item in Attachment A that calls for a narrative response. You may supplement your narrative response with documents.
3. Include true, complete, and accurate copies of ALL documents requested in Attachment A as specified in the instructions. If you claim that any document, or part of the document, requested by this Subpoena is confidential business information, you still must provide that document.
4. Include the attached declaration. Please read the declaration carefully and be sure that you understand it before you sign and swear to it.

5. Mail your response first class within 30 days of your receipt of this Subpoena. If it is absolutely necessary to request an extension of time to respond, you must immediately contact Ms. Dunn at (312) 886-6191.

Responses claimed as Confidential Business Information (CBI) should be mailed in strict accordance with the instructions established in Section III of this Subpoena.

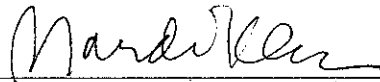
This Subpoena is not subject to the requirements of the Paperwork Reduction Act, 44 U.S.C. §§ 3501, *et seq.*, because it seeks the collection of information from specific individuals or entities as part of an administrative action or investigation.

Under Section 16 of TSCA, 15 U.S.C. § 2615, and 40 C.F.R. Part 19, EPA is authorized to seek civil penalties of up to \$37,500 per day against LG Chem Michigan, Inc. for failing or refusing to submit the information required by the Subpoena. Further, under 18 U.S.C. § 1001, you may be fined or imprisoned for up to five years for knowingly or willfully: (1) falsifying, concealing, or covering up a material fact; (2) making any material false, fictitious, fraudulent statement or representation; or (3) making or using any false writing or document knowing it contains any materially false, fictitious, or fraudulent statement.

**FAILURE TO FULLY COMPLY WITH THIS SUBPOENA MAY RESULT IN A COURT ACTION AGAINST YOU.**

Issued on

July 17, 2013



Mardi Klevs

Chief

Chemicals Management Branch

Land and Chemicals Division

## ATTACHMENT A

### **I. Instructions**

1. Please answer each question posed. If the appropriate response is "none" or "not applicable" that information should be so stated.
2. Please answer every question completely. Provide a separate answer to each and every question and subpart of a question set forth in this Subpoena.
3. Provide responses to the best of your ability, even if the information sought was never reduced to writing or if the written documents are no longer available. You should seek responsive information from current and former employees and/or agents. If you cannot provide a precise answer to any questions, please approximate and state the reason for your inability to be specific.
4. Response Format:
  - a. All documents you submit should be labeled and keyed to the specific question the document is in response to. For each document produced in response to this Subpoena, indicate on the document (or in some other reasonable manner) the applicable number of the question to which the document responds.
  - b. Your response should be submitted in the portable document format (pdf) on a USB flash drive or other suitable electronic storage device. Please note that, where possible, your response in pdf format should be provided in searchable format (i.e., optical character recognition (OCR)) to allow EPA to search for particular words or characters. If you are unable to submit a portion or all of your response in a searchable pdf format, you may submit pdf scans or paper copies of these records.
5. If anything is deleted from a document produced in response to this Subpoena, state the reason for and the subject matter of the deletion.
6. If you claim that an entire document responsive to this Subpoena is a communication for which you assert that a privilege exists, identify the document and provide the basis for asserting the privilege. For any document for which you assert that a privilege exists for a portion of it, provide the portion of the document for which you are not asserting a privilege; identify the portion of the document for which you are asserting the privilege; and provide the basis for such an assertion. Please note that regardless of the assertion of any privilege, any facts contained in the document which are responsive to this Subpoena should be disclosed in your response.
7. Please complete the enclosed certification to certify that the information you are providing in response to this Subpoena is true, accurate, and complete.

8. If additional information or documents responsive to this Subpoena become known or available to you after you respond to this Subpoena, EPA requests, pursuant to the Agency's subpoena authority under TSCA Section 11(c), 15 U.S.C. Section 2610 (c), that you supplement your response. If at any time after the submission of this response, you discover or believe that any portion of the submitted information is false or misrepresents the truth, you must notify EPA of this fact as soon as possible and provide EPA with a corrected response. If any part of the response to this Subpoena is found to be false, the signatory to the response and the company may be subject to civil or criminal prosecution or both.

## **II. Definitions**

**Please read these definitions carefully to properly comply with the terms of this Subpoena.**

Unless otherwise defined below, the terms used in this Subpoena have the meanings given in Section 3 of the Toxic Substances Control Act, 15 U.S.C. § 2602, and implementing regulations thereof.

1. "Provide" or "describe" means turning over to EPA either original or duplicate copies of the requested information in the possession, custody, or control of Respondent. Where specific information has not been memorialized in any document but is nonetheless responsive to a request, you must respond to the request with a written response. If such requested information is not in your possession, custody, or control, then indicate where such information or documents may be obtained.
2. "Document" means the original or an identical and readable copy thereof, and all non-identical copies (whether different from the original by reason of notations made on such copies or otherwise), of any writings or records of any type or description, however created, produced or reproduced, including but not limited to any final contracts, contingency contracts, riders, agreements, papers, books, records, letters, photographs, correspondence, communications, telegrams, cables, telex messages, memoranda, notes, notations, work papers, transcripts, minutes, reports and recordings of telephone or other conversations, or of interviews, conferences, or other meetings, affidavits, statements, summaries, opinions, reports, studies, analyses, evaluations, jottings, agendas, bulletins, notices, announcements, advertisements, instructions, charts, manuals, blueprints, brochures, publications, schedules, price lists, client lists, journals, statistical records, desk calendars, appointment books, diaries, lists, tabulations, sound recordings, computer printouts, data processing program libraries, data processing input and output, microfilm, books of accounts, records and invoices reflecting business operations, all records kept by electronic, photographic or mechanical means, any notes or drafts related to the foregoing, and all things similar to any of the foregoing, however denominated.
3. "You" or "Respondent" means LG Chem Michigan, Inc. of Holland, Michigan and all business entities in which LG Chem Michigan, Inc. has or had any ownership or management interest, and any officers, managers, employees, contractors, partners, trustees, assigns, subsidiaries and agents of LG Chem Michigan, Inc. or of such business entities.

### **III. Claims of Confidential Business Information**

Pursuant to the regulations set forth at 40 C.F.R. Part 2, Subpart B, you may choose to assert that part or all of the submitted information is confidential business information (CBI). Unless such confidentiality claims are asserted at the time the information is submitted, EPA may make this information available to the public upon request without further notice to you. Conversely, information that is CBI may be made available to the public only to the extent set forth in 40 C.F.R. Part 2, Subpart B.

Please note that CBI claims are unlikely to be upheld unless the information meets all of the criteria set forth in 40 C.F.R. § 2.208. Specifically, you must show that:

1. Your business has taken reasonable measures to protect the confidentiality of the information and intends to continue to take such measures,
2. The information is not, and has not been, reasonably obtainable without your business's consent by other persons (other than government bodies) by use of legitimate means (other than discovery based on showing of special need in a judicial or quasi-judicial proceeding),
3. No statute specifically requires disclosure of the information, and the information is not available elsewhere, and
4. Disclosure of the information is likely to cause substantial harm to your business's competitive position.

**The burden of proof is on you to demonstrate that the information you claim as CBI satisfies all four criteria. You should not claim as CBI information that you consider *private* but that does not qualify as *confidential* business information under the substantive criteria set forth in 40 C.F.R. § 2.208 (such as medical information and social security numbers).**

If you wish for EPA to treat any information or response as CBI, you must, pursuant to 40 C.F.R. § 2.203(b), so advise EPA and attach to the information, at the time it is submitted to EPA, a cover sheet, stamped or typed legend, or other suitable form or notice employing language such as *trade secret*, *proprietary*, or *company confidential*. In addition, you must clearly identify allegedly confidential portions of otherwise non-confidential documents. You must make a separate assertion of confidentiality for each response and each document considered confidential. An explanation of your CBI claim must be included and must refer to the applicable substantive criteria in 40 C.F.R. § 2.208. If you believe that facts and documents necessary to substantiate confidentiality are themselves confidential, please identify them as such so that EPA may maintain their confidentiality.

A written index identifying the following for each response or document for which you assert a claim of confidentiality must be provided:

- a. Describe the response or document and nature of the information. For a document, include the name of the author(s), the date the document was issued, the summary title, and the name(s) of the recipient(s).
- b. Specify the portion of the response or document for which you assert a claim of confidentiality by reference to page numbers, paragraphs, and lines, or specify entire document.
- c. Briefly identify the basis of your claim.

If any portion of your response contains information which you claim as CBI, you must submit two copies of any such documents in accordance with the following procedures:

- a. The first copy of any documents containing information you believe to be CBI must be complete and contain all information. These complete copies must be placed in an envelope that is clearly marked as "Confidential Business Information."
- b. The second copy of any documents claimed as CBI must be redacted to include only that information that you are NOT claiming as CBI. These redacted copies must be placed in a second envelope that is clearly marked as "Non-Confidential."
- c. Mail both copies to:

Claudia Niess  
TSCA Document Control Officer  
U.S. EPA, Region 5 (LC-8J)  
Pesticides and Toxics Compliance Section  
77 W Jackson Boulevard  
Chicago, Illinois 60604

#### **IV. Information and Documents You Are Required to Submit to EPA**

This Subpoena requires you to answer the following questions and to submit documentation to support each answer. **All questions refer to the time period of January 1, 2010 to the date of this Subpoena**, unless otherwise noted, and to the LG Chem Michigan, Inc. facility located at 1 LG Way, Holland, Michigan (the Facility). If any questions refer to a chemical that is part of a mixture of chemicals, provide the name of the mixture it is part of, and the percent by weight of the subject chemical constituent.

1. What chemicals have been "manufactured," as the term is defined in 40 C.F.R. § 704.3 (and which includes importing) by the Facility? Provide your response with the following information for each chemical manufactured:
  - a. Chemical name
  - b. Chemical CAS Number
  - c. The amount of chemical "manufactured" annually, by weight (provide units)
  - d. Indicate whether the chemical was imported, manufactured, or both

2. Does the Facility have knowledge of "manufacturing" any chemicals subject to testing pursuant to a rule promulgated under Section 4(a) of TSCA? If so, provide a list of the subject chemicals including chemical name and CAS number. (TSCA § 4, 40 C.F.R. §§ 790 and 799).
3. Has the Facility submitted any Premanufacture Notifications (PMNs) to EPA? If so, provide documentation. (TSCA § 5, 40 C.F.R. § 720).
4. If the answer to question 3 is "yes," did the Facility submit a Notice of Commencement for the PMN substance to EPA? If so, provide documentation. (TSCA § 5, 40 C.F.R. § 720.102).
5. Does the Facility have knowledge of "manufacturing" a chemical not listed on the TSCA chemical inventory without filing a PMN or NOC? If so, did the Facility meet an exemption to TSCA § 5 PMN and NOC requirements? If "yes," state the exemption and provide documentation demonstrating how the Facility met the exemption. (TSCA § 5, 40 C.F.R. § 723).
6. Does the Facility have knowledge of "manufacturing" or processing any chemicals subject to a Significant New Use Rule (SNUR)? If so, list the chemical name and CAS Number. (TSCA § 5, 40 C.F.R. § 721).
7. Did the Facility file a report to the 2012 Chemical Data Reporting (CDR) rule? If so, provide a copy of the submission. (TSCA § 8, 40 C.F.R. § 711).
8. Has the Facility received any complaints of significant adverse reactions to health or the environment alleged to have been caused by a substance or mixture manufactured, processed, or distributed in commerce by the Facility? If so, provide records. (TSCA § 8(c), 40 C.F.R. § 717).
9. Does the Facility possess information which suggests that a substance or mixture manufactured, processed, or distributed in commerce by the Facility presents a substantial risk of injury to health or the environment? If so, provide records. (TSCA § 8(e)).
10. Does the Facility export chemicals? Provide the following information for each chemical exported:
  - a. Chemical name
  - b. Chemical CAS Number
  - c. Date(s) of export
  - d. Country or countries the chemical was exported to
11. Has the Facility submitted TSCA Section 12(b) export notifications to EPA? If so, provide a copy of the submissions. (TSCA § 12(b), 40 C.F.R. § 707 Subpart D).

12. Does the facility provide TSCA import certifications for chemicals it imports? If so, provide documentation of three such import certifications that have been presented to U.S. Customs and Border Protection. (TSCA § 13, 40 C.F.R. § 707.20).

The following questions refer to *Cellcore MX* and any other product containing or comprised of cobalt lithium manganese nickel oxide, CAS Number 182442-95-1, (collectively referred to as "the Substance"), manufactured, imported, or processed by LG Chem Michigan, Inc. **from January 1, 2010 to the date of this Subpoena unless otherwise stated.**

13. Provide records documenting manufacture and importation volume of the Substance and corresponding dates of manufacture and import. (40 C.F.R. §§ 721.125(a) and 10201(b)(1)).
14. Provide records documenting volumes of the Substance purchased in the United States by the Facility, the names of the suppliers, and corresponding dates of purchase (40 C.F.R. §§ 721.125(b) and 10201(b)(1)).
15. Provide records documenting the names and addresses (including shipment destination address, if different) of all persons outside the Facility to whom the Facility directly sells or transfers the Substance, as well as the date of each transfer and the amount transferred. (40 C.F.R. §§ 721.125(c) and 10201(b)(1)).
16. Provide records documenting establishment and implementation of a program for the use of any applicable personal protective equipment required under 40 C.F.R. § 721.63 for handling of the Substance. (40 C.F.R. §§ 721.125(d) and 10201(b)(1)).
17. Provide records documenting the determinations required by 40 C.F.R. § 721.63(a)(3) that the selected chemical protective clothing is impervious to the Substance. (40 C.F.R. §§ 721.125(e) and 10201(b)(1)). The responsive records may pre-date January 1, 2010.
18. Provide records documenting establishment and implementation of the hazard communication program for the Substance required under 40 C.F.R. § 721.72. (40 C.F.R. §§ 721.125(f) and 10201(b)(1)). The responsive records may pre-date January 1, 2010.
19. Provide copies of the labels required for the Substance under 40 C.F.R. § 721.72(b). (40 C.F.R. §§ 721.125(g) and 10201(b)(1)).
20. Provide copies of the MSDS required for the Substance under 40 C.F.R. § 721.72(c). (40 C.F.R. §§ 721.125(h) and 10201(b)(1)).
21. Provide records documenting the establishment and implementation of procedures to ensure compliance with water discharge limits of 40 C.F.R. § 721.90(a)(1), (b)(1) and

(c)(1) for the Substance. (40 C.F.R. §§ 721.125(k) and 10201(b)(1)). The responsive records may pre-date January 1, 2010.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

**In the Matter of:**

LG Chem Michigan, Inc.  
Holland, Michigan,

**Respondent.**

**SUBPOENA DUCES TECUM**

**Declaration Responding to Subpoena**

I, the undersigned, state as follows:

1. I have made a diligent search and inquiry for all information and documents that are requested in the Subpoena to which this declaration responds. I have not found or been told about, and have no knowledge of, any information or documents requested by the Subpoena that I have not identified, copied, and submitted along with this declaration. I have not destroyed any requested documents or transferred any requested documents to any other person or party in the last three years.
2. Attached to this declaration are \_\_\_\_\_ pages of document photocopies. The attached pages are true, complete, and correct copies of documents that I presently have in my custody or control either personally, or as an agent, representative, or employee of a business entity in which I had or have a financial or ownership interest.
3. The information and documents were prepared and kept, or were received and kept, in the usual course of regularly conducted business.
4. All the responses to the inquiries contained in the Subpoena are true, complete, and correct.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on \_\_\_\_\_

Date

Signature: \_\_\_\_\_

Office or Title: \_\_\_\_\_